IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-12-2007

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

W.P.No.10650 of 1999

K.Rayar .. Petitioner.

Versus

1.Special Tahsildar
Revenue Court, Cuddalore.

2.Tahsildar-cum-Tenancy Record Officer,
Cuddalore.

3.District Revenue Officer,
Additional District Judge, Cuddalore.

4.Lakshmiammal .. Respondents.

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records in R.P.No.26 of 1998, dated 30.3.99, on the file of the 3rd respondent and quash the same.

For petitioner : Mr.S.K.Rakhunathan
For respondents : Mr.V.Manoharan
Government Advocate (R1 to R3)
Mr.R.Sathya Kumar (R4)

O R D E R

Heard Mr.S.K.Rakhunathan, the learned counsel appearing for the petitioner and Mr.V.Manoharan, the learned Government Advocate appearing for the respondents 1 to 3 and Mr.R.Sathya Kumar, the learned counsel appearing for the fourth respondent.

2. It is stated by the petitioner that he is a cultivating tenant in respect of 1 acre and 50 cents in Survey No.3689 in Cuddalore OT (Municipal), having a total extent of 3 acres and 24 cents and in S.No.72 in Cuddalore OT (non-municipal), having an extent of 0.16.5 hectares. With regard to the said lands, the petitioner had made an application before the first respondent for recording his name as a cultivating tenant, under the provisions of the Tamilnadu Agricultural Lands Record of Tenancy Rights Act, 1969. The petitioner was recorded as a cultivating tenant by an order of

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the second respondent, dated 6.8.96. However, the second respondent, while issuing the said order, had mentioned the wrong survey number i.e., instead of showing the survey number as T.S.No.3989, it was shown as T.S.No.39 of 89. Therefore, by a further order, dated 6.9.1996, the second respondent had rectified the said mistake.

3. It is further stated that the fourth respondent, who had no connection with the property, had filed an appeal before the first respondent in T.R.A.P.No.4 of 1997, on the ground that the fourth respondent's husband had died during the pendency of the petition and that he alone was the cultivating tenant in the said property. Since the order had been passed against a dead person it was invalid, as the legal representatives had not been brought on record.

4. It had also been stated that the fourth respondent was not served with a notice and the properties in question do not belong to the trust, as stated in the petition before the first respondent. While contesting the appeal, the petitioner had stated that the fourth respondent is not an aggrieved person, as the properties belonged to Chidambaram Muthaiah Mudaliar Chattiram which is a Trust in which the fourth respondent is a trustee. The trust property was given to the petitioner for cultivation and that the petitioner has been a cultivating tenant in the said property for a long time. The petitioner had also relied on various documents, in support of his contentions.

5. The order of the second respondent had been made, on 6.8.1996. Thereafter, the mistake with regard to the survey number had been rectified, on 6.9.1996 and the said order had been received by the fourth respondent, on 9.9.1996. Therefore, the appeal ought to have been filed within sixty days thereafter, i.e., on or before 8.11.1996. Instead, the fourth respondent had filed an appeal on 21.1.1997, after a delay of 83 days and no application for condoning the delay had been filed. In such circumstances, the first respondent had rejected the appeal on the ground that the appeal had been filed beyond the period of limitation. Aggrieved by the said order of the first respondent, the fourth respondent had filed a revision before the third respondent in T.R.R.P.No.26 of 1998. Considering the contentions raised on behalf of the fourth respondent, the third respondent had set aside the order made in T.R.A.P.No.4 of 1997, and remitted the appeal to the first respondent for fresh consideration stating that the first respondent had disposed of the appeal filed by the fourth respondent on 21.1.1997, belatedly, by an order, dated 10.11.1997, instead of disposing of the appeal at the initial stage itself enabling the fourth respondent to take appropriate steps in accordance with law. Aggrieved by the order passed by the third respondent, allowing the revision and setting aside the order made in T.R.A.P.No.4 of 1997, the present writ petition has been filed, raising various grounds as stated therein.

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6. Based on the submissions made on behalf of the petitioner as well as the respondents and on a perusal of the records available, this Court is of the considered view that the petitioner has not shown sufficient cause or reason to set aside the impugned proceedings of the third respondent, dated 30.3.1999, made in T.R.R.P.No.26 of 1998. However, it is noticed that the fourth respondent has certain genuine grievance in challenging the order of the first respondent, since no notice had been served on her and that the order had been passed against a dead person as her husband had died during the pendency of the petition.

7. In such circumstances, it is found to be appropriate to direct the first respondent to hear both the petitioner, as well as the fourth respondent and pass appropriate orders, on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order.

With the above directions, this writ petition is dismissed. No costs.

Csh

Sd/
Asst. Registrar

/true copy/

Sub Asst.Registrar

To

1.Special Tahsildar
Revenue Court, Cuddalore.

2.Tahsildar-cum-Tenancy Record Officer,
Cuddalore.

3.District Revenue Officer,
Additional District Judge, Cuddalore.

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- One cc to Mr. S.K. Raghunathan, Advocate SR 71148
- One cc to Government Pleader SR 71518
- One cc to Mr Gururaj, Advocate sR 71358

KG (co)
sg 24/01/08

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